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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/543,227	04/05/2000	Thomas Henry Helzerman	200-0487	7271

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EXAMINER

MEINECKE DIAZ, SUSANNA M

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 01/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/543,227

Applicant(s)

HELZERMAN, THOMAS HENRY

Examiner

Susanna M. Diaz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 21-27 is/are pending in the application.
- 4a) Of the above claim(s) 21-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) is/are objected to.
- 8) ☐ Claim(s) are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 April 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) .
- 4) ☐ Interview Summary (PTO-413) Paper No(s). .
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

1. This Office action is responsive to Applicant's Election filed November 18, 2002.

Applicant has elected Group I (claims 1-6) without traverse.

Claims 7-20 have been cancelled by the Applicant.

Claims 21-27 have been added.

2. Newly submitted claims 21-27 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claims 21-27 substantially comprise the same limitations as those recited in non-elected, cancelled claims 13-20. In other words, claims 21-27 are drawn to a method for conducting a marketability study based on customer feedback, classified in class 705, subclass 10.

Since Applicant has already elected Group I (drawn to a method for performing a project feasibility study based on technological capabilities, classified in class 705, subclass 7), this invention stands as the elected invention for prosecution on the merits. Accordingly, claims 21-27 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

3. Claims 1-6 are presented for examination.

Drawings

4. The drawings are objected to because the drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)). Each sheet must include a top margin of

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at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch).

Note Figures 1-9. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1-6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. For a method claim, the recited process must somehow apply, involve, use, or advance the technological arts. In the present case, claims 1-6 recite the useful, concrete, and tangible result of developing and performing a manufacturing project; however, the claimed invention fails to explicitly apply, involve, use, or advance the technological arts. For example, as claimed, all of the recited steps can be performed solely by a human. In summary, although the recited method produces a

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useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, claims 1-6 are deemed to be directed to non-statutory subject matter.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duncan, A Guide to the Project Management Body of Knowledge.

Duncan discloses a method for developing and performing a manufacturing project comprising the steps of:

[Claim 1] providing a concept proposal to develop processes to manufacture a desired product (page 11, section 2.1.3; page 87, section 8.1.2.4);

conducting a concept feasibility procedure, effective to demonstrate that a certain technology is feasible to manufacture said desired product (page 5, section 1.2.2; page 11, section 2.1.3; page 14, section 2.1.3; page 49, section 5.1; pages 86-87, section 8.1.2 – A product cannot be manufactured if the technology(ies) used are not demonstrated as feasible to manufacture the product. Section 5.1 explicitly states that advances in technology serve to initiate certain projects; therefore, a concept feasibility

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procedure to demonstrate that a certain technology is feasible to manufacture a desired product is deemed to be inherent to the management of such a project);

[Claim 2] assembling a workforce for performing said project (pages 98-99, section 9.2);

[Claim 3] providing orientation and communication processes for said workforce (pages 99-101, section 9.3);

providing career development and training processes for said workforce (page 100, section 9.3.2.5); and

providing reward and recognition processes for said workforce (page 100, section 9.3.2.3);

[Claim 4] performing a procedure to establish logistic metrics pertaining to project performance and budgeting (pages 107-109, section 10.3);

[Claim 5] forming manufacturing technology committees (page 43, section 4.2.2 – Please note that the phrase “manufacturing technology” is a mere label of the recited committees and therefore merits no patentable weight beyond the recitation of “forming...committees”); and

convening said committees on a regular basis to define effective strategies to advance global manufacturing competitiveness (pages 15-25, sections 2.2-2.5; page 43, section 4.2.2; page 87, section 8.1.2.4 – As discussed above, Duncan is directed to making the project management process, such as that associated with manufacturing an automobile, more efficient and cost-effective. Such an endeavor in a manufacturing

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process is inherently useful in advancing the global manufacturing competitiveness of a company carrying out the manufacturing process);

[Claim 6] wherein said project is related to the manufacture of an automotive vehicle (page 8, section 1.4; page 87, section 8.1.2.4).

Regarding claim 1, while the concept of assessing the feasibility of a technology to manufacture a desired product is deemed to be inherent to Duncan's disclosed approach to project management, Duncan fails to explicitly provide specific details of how such a feasibility is assessed. More specifically, Duncan fails to teach the following steps:

performing a manufacturing concept ready procedure, effective to verify that said certain technology is capable of manufacturing said desired product under simulated conditions;

performing a manufacturing implementation procedure, effective to verify that said certain technology is functionally sound and meets certain quality and cost criteria; and

performing a replication procedure, effective to implement multiple applications of said certain technology within other manufacturing processes.

Nevertheless, Official Notice is taken that the simulation of a manufacturing process is old and well-known in the art of simulation. Simulations are well-known in the art as being useful for verifying the likely outcome and success or failure of a

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process before investing extensive amounts of money to physically perform a process that may or may not yield the otherwise expected results. Furthermore, by using simulations to test the feasibility of a technology, one is indeed evaluating the functional soundness of the technology for the manufacturing task at hand. As discussed above, Duncan teaches the importance of assessing whether or not cost criteria are being met when planning and auditing a project throughout the project phases (pages 76-81, sections 7.2-7.4; pages 107-109, section 10.3). Overall, Duncan's disclosure is directed toward the efficient planning of a feasible project, such as a manufacturing project; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to incorporate the steps of performing a manufacturing concept ready procedure, effective to verify that said certain technology is capable of manufacturing said desired product under simulated conditions and performing a manufacturing implementation procedure, effective to verify that said certain technology is functionally sound and meets certain quality and cost criteria as part of Duncan's project management approach in order to assist in verifying the likely outcome and success or failure of a manufacturing project before investing extensive amounts of money to physically perform a project that may or may not yield the otherwise expected results.

Additionally, Duncan describes the concept of "benchmarking" as follows:

Benchmarking involves comparing actual or planned project practices to those of other projects in order to generate ideas for improvement and to provide a standard by which to measure performance. The other projects may be within the performing organization or outside of it, and may be within

the same application area or in another. (Page 86, Section 8.1.2.2)

This means that Duncan encourages the replication of proven practices in other pertinent applications. Further, Official Notice is taken that it is old and well-known in the art of manufacturing to replicate a certain technology among various manufacturing processes. For example, if a particular technological manufacturing improvement proves to be useful in one automotive plant, then the implementation of this improvement in various automotive plants is a type of replication procedure of technology within other manufacturing processes. Replication of a procedure provides the advantage of spreading beneficial procedures throughout relevant technologies, applications, manufacturing plants, etc. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to incorporate the step of performing a replication procedure, effective to implement multiple applications of said certain technology within other manufacturing processes as part of Duncan's project management approach in order to provide the advantage of spreading beneficial procedures throughout relevant technologies, applications, manufacturing plants, etc.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Eder (U.S. Patent No. 6,393,406 B1) – Discloses a method for valuing elements of a business enterprise.

Chin et al. (U.S. Patent No. 5,787,283) – Discloses a framework for manufacturing logistics decision support.

Knudson et al. (U.S. Patent No. 5,765,140) – Discloses a project planning tool for scheduling tasks and tracking the costs associated with these tasks.

Hogge (U.S. Patent No. 5,280,425) – Discloses the determination of a feasible production plan, including a cost function.

Foley (U.S. Patent No. 5,249,120) – Discloses an automated manufacturing cost estimating method.

Kerzner, Ph.D., Harold (Project Management: A Systems Approach to Planning, Scheduling, and Controlling (5th ed.)) – Discloses various aspects of project management, including the concept of technology forecasting.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (703) 305-1337. The examiner can normally be reached on Monday-Friday, 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703)308-1113.

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Any response to this action should be mailed to:

***Commissioner of Patents and Trademarks
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or faxed to:

(703)305-7687 [Official communications; including
After Final communications labeled
"Box AF"]

(703)746-7048 [Informal/Draft communications, labeled
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 22202, 7th floor receptionist.



Susanna M. Diaz
Patent Examiner
Art Unit 3623
December 31, 2002